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National Energy Board

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Key Documents  
Related to the Board's  
Decision on the  
Framework for Light-  
Handed Regulation

Westcoast Energy Inc.

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Framework Summary

JUL 21 1998



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June 1998

Gathering and Processing



## **National Energy Board**

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### **Key Documents Related to the Board's Decision on the Framework for Light- Handed Regulation**

In the Matter of

**Westcoast Energy Inc.**

Application dated 5 March 1998

**June 1998**

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represented by the National Energy Board

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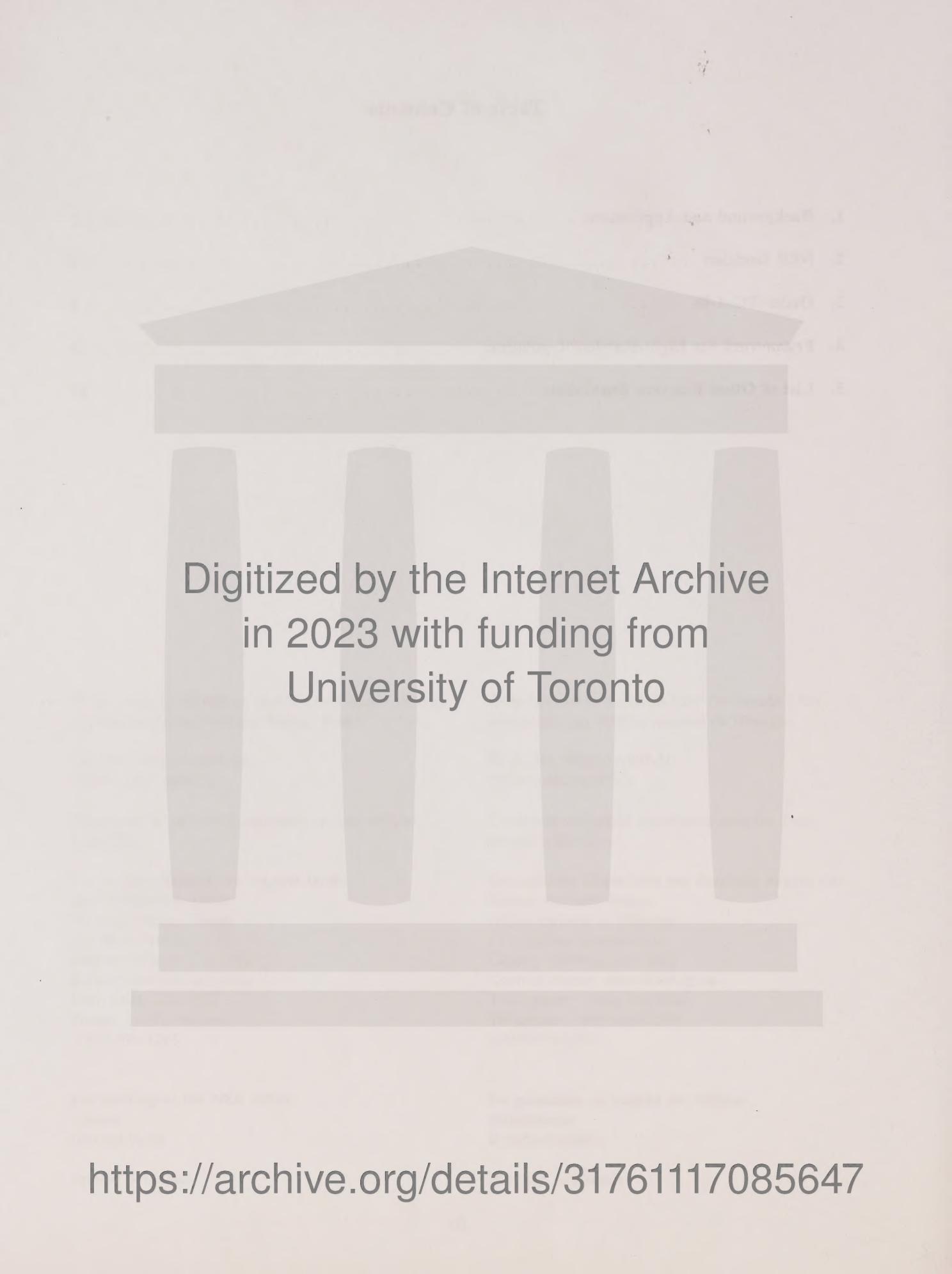
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## **Chapter 1**

# **Background and Application**

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In its RH-2-97 Reasons for Decision dated August 1997, the National Energy Board (the "Board" or the "NEB") approved the Multi-year Incentive Toll Settlement dated 16 May 1997 (the "Settlement") between Westcoast Energy Inc. ("Westcoast") and its stakeholders as represented by the Canadian Association of Petroleum Producers ("CAPP"), the Council of Forest Industries, Methanex Corporation, Cominco Ltd., the Export Users Group ("EUG"), BC Gas Utility Ltd. ("BC Gas") and CanWest Gas Supply Inc. ("CanWest") (collectively the "Parties"). Pursuant to the Settlement, the Parties agreed on the tolls, or methodologies for fixing tolls, which Westcoast will charge over the period 1 January 1997 to 31 December 2001.

The Settlement contemplates that there will be a transition towards more negotiated, market-based arrangements between Westcoast and its shippers consistent with the objective of implementing a method of light-handed regulation to apply to Westcoast's gathering and processing services. Under the terms of the Settlement, the Parties reserved a number of matters for further negotiation and settlement, including the principles of light-handed regulation.

On 5 March 1998, Westcoast filed a document entitled "Framework for Light-Handed Regulation" (the "Framework") which amends the Settlement by attaching the Framework as Schedule E to the Settlement. The Framework does not replace the Settlement but provides the mechanism by which Westcoast's tolls for gathering and processing services will be based on negotiated arrangements.

On 9 April 1998, the Board issued a letter to Westcoast setting out the process to consider the Framework. The Board directed Westcoast to organize a workshop in Calgary on 13 May 1998 to present the Framework and to respond to questions from Board staff and Interested Parties. A written procedure was also established allowing Interested Parties to comment on the Framework and to respond to five legal issues identified by the Board. Westcoast was also given a right to file reply comments.

The Board received comments from Westcoast, CAPP, BC Gas, EUG, CanWest and Northwest Pacific Energy Marketing Inc. ("NORPAC"). No party opposed the Framework.

On 25 June 1998, the Board issued its Decision approving Westcoast's application. This document is a compilation of relevant documents in relation to the Framework that parties can use for future reference.

The Framework, absent certain Market Data Reports and Standard Service Contracts, has been reproduced in Chapter 4. Readers should refer to the original document for further details on the Framework.

## Chapter 2

# NEB Decision

---

File 4200-W005-10-1  
25 June 1998

### BY FACSIMILE

Mr. R.B. Maas  
Senior Vice President  
Pipeline Division  
Westcoast Energy Inc.  
1333 West Georgia Street  
Vancouver, B.C.  
V6E 3K9

Dear Mr. Maas:

**Re:     Westcoast Energy Inc. ("Westcoast")  
         Multi-year Incentive Toll Settlement  
         Framework for Light-Handed Regulation**

The Board has considered your application dated 5 March 1998 for approval of the Framework for Light-Handed Regulation (the "Framework") which amends the Multi-year Incentive Toll Settlement dated 16 May 1997 approved by the Board in its RH-2-97 Reasons for Decision. The Board has also considered Westcoast's submissions dated 20 and 25 May 1998 and the comments received from the Canadian Association of Petroleum Producers, BC Gas Utility Ltd., the Export Users Group, CanWest Gas Supply Inc. and Northwest Pacific Energy Marketing Inc.

The Board has examined the Framework in the light of its Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs dated 23 August 1994. In particular, the Board has been guided by the following criteria:

- All parties having an interest in a pipeline's traffic, tolls and tariffs should have a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement. The settlement process should be open and all interested parties should be invited to participate in the actual settlement negotiations;
- A negotiated settlement process must not fetter the Board's ability and discretion to take into account any public interest considerations which may extend beyond the immediate concerns of the negotiating parties;
- The settlement process must produce adequate information on the public record for the Board to understand the basis for the agreement and to assess its reasonableness; and

- The Board will not accept a settlement which contains provisions that are illegal, or contrary to the Act.

The Board notes the broad industry support for the Framework. The open workshop and the comment procedure following the workshop have given all interested parties an opportunity to obtain further details with respect to the terms of the Framework and to provide comments.

Given the many innovative provisions in the Framework, it is not possible at this time to anticipate the nature and extent of issues that may arise in respect of the implementation of the Framework. To this end, the Board notes that the proposed complaints procedure will allow recourse to the Board to achieve resolution of all issues as and when they may arise.

In continuing to fulfill its mandate in respect of the regulation of Westcoast's tolls and tariffs, and to enable the Board to respond to related issues as they may arise, the Board intends to monitor developments in the implementation of the Framework.

Subject to the foregoing, the Board approves the Framework as filed. Specifically, the Board approves Approach #1 (described on page 9 of the Framework) with respect to the filing of tariff information and the amended General Terms and Conditions - Service found under Tab 2. The Board also confirms that the Framework satisfies the Board's directions to Westcoast, set out in a letter dated 29 November 1996, regarding the establishment of an asset disposition policy and code of conduct. Further, the Board confirms that the balance in the Revenue Deferral Account as of 31 December 1999 will be for the account of Westcoast and that the Revenue Deferral Account will be discontinued effective 31 December 1999.

Lastly, the Board notes on page 17 of the Framework that, during the term of the Settlement, all interconnection agreements will be public. The Board directs that Westcoast make those agreements public by filing them with the Board and serving them on any party that requests them.

The attached Order TG-4-98 gives effect to the above decisions.

Yours truly,

*(signed by)*

Michel L. Mantha  
Secretary

Attachment

c.c. Interested Parties to the Framework for Light-Handed Regulation proceeding

## **Chapter 3**

# **Order TG-4-98**

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### **ORDER TG-4-98**

IN THE MATTER OF the *National Energy Board Act* (the "Act") and the Regulations made thereunder; and

IN THE MATTER OF an application dated 5 March 1998 by Westcoast Energy Inc. ("Westcoast") for approval of a Framework for Light-Handed Regulation pursuant to Part IV of the Act, and filed with the National Energy Board (the "Board") under File 4200-W005-10-1.

BEFORE the Board on 25 June 1998.

WHEREAS Westcoast, by application dated 5 March 1998, applied to the Board for approval of a Framework for Light-Handed Regulation (the "Framework") pursuant to Part IV of the Act in respect of tolls for gathering and processing services that it provides in Zone 1 and Zone 2;

AND WHEREAS the Framework is intended to form Schedule E to the Multi-year Incentive Toll Settlement (the "Settlement") dated 16 May 1997 approved by the Board in its RH-2-97 Reasons for Decision;

AND WHEREAS on 9 April 1998 the Board issued a letter directing Westcoast to organize a workshop in Calgary on 13 May 1998 and establishing a written procedure allowing Interested Parties to comment on the Framework and to respond to five legal questions identified by the Board;

AND WHEREAS the Board considered the comments received from Interested Parties filed in response to the above-noted letter;

AND WHEREAS the Board's decisions on Westcoast's application are set out in its letter dated 25 June 1998;

#### **IT IS ORDERED THAT:**

1. The Settlement is amended by attaching the Framework as Schedule E to the Settlement;
2. Westcoast shall determine tolls for gathering and processing services in Zone 1 and Zone 2 in accordance with the methodology and procedures set out in the Settlement and the Framework;
3. Westcoast shall for accounting, toll-making and tariff purposes, implement procedures to give effect to and conform with the Board's decisions contained in its letter dated 25 June 1998, including the decision approving the Framework as filed;

4. Those provisions of Westcoast's tolls and tariffs, or any portion thereof, that are contrary to any provisions of the Act, the Board's Decision dated 25 June 1998 or any Order of the Board including this Order, are hereby disallowed.

NATIONAL ENERGY BOARD

*(signed by)*

Michel L. Mantha  
Secretary

## **Chapter 4**

# **Framework for Light-Handed Regulation**

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March 5, 1998

Via Courier

Mr. M.L. Mantha  
Secretary  
**National Energy Board**  
311 - 6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Dear Mr. Mantha:

**Re: Westcoast Energy Inc.**  
**Multi-year Incentive Toll Settlement**  
**Framework for Light-Handed Regulation**

Pursuant to the Multi-year Incentive Toll Settlement dated May 16, 1997 (the "Settlement") between Westcoast Energy Inc. ("Westcoast") and its stakeholders as represented by the Canadian Association of Petroleum Producers, the Council of Forest Industries, Methanex Corporation, Cominco Ltd., the Export Users Group, BC Gas Utility Ltd. and CanWest Gas Supply Inc. (collectively the "Parties"), the Parties agreed on the tolls, or methodologies for fixing tolls, which Westcoast will charge over the period January 1, 1997 to December 31, 2001. The Settlement was approved by the National Energy Board (the "Board") in its RH-2-97 Decision dated August 1997.

The Settlement contemplates that there will be a transition towards more negotiated market based arrangements between Westcoast and its shippers consistent with the objective of implementing a method of light-handed regulation to apply to the gathering and processing services provided by Westcoast. Under the terms of Schedule A to the Settlement the Parties reserved a number of matters for further negotiation and settlement, including the principles of light-handed regulation. The Parties have now reached agreement on all matters which were reserved under the Settlement for further negotiation. The agreement of the Parties with respect to these matters is set out in a document entitled "Framework for Light-Handed Regulation" (the "Framework"). The Parties have agreed, pursuant to an amending agreement dated as of January 23, 1998 (the "Amending Agreement"), to amend the Settlement by attaching the Framework as Schedule E to the Settlement. The Framework does not replace the Settlement but provides the mechanism by which Westcoast's tolls for gathering and processing services will be based on negotiated arrangements. A copy of the Amending Agreement (together with the Framework which is attached to the Amending Agreement) is enclosed under Tab 1. The purpose of this Application is to seek Board approval of the Framework, as contemplated by section 7.1 of Schedule A to the Settlement. The Framework is intended to take effect upon approval by the Board.

The Framework addresses the following matters:

- The principles of light-handed regulation which will govern the negotiation by Westcoast of market based arrangements for gathering and processing services in Zone 1 and Zone 2 (the negotiation of the principles of light-handed regulation was specifically provided for in section 7.1 of Schedule A to the Settlement).
- The appropriate means of replacing section 2.02 of Westcoast's General Terms and Conditions (renewal rights) while affording existing shippers a fair and reasonable opportunity to negotiate the terms of continued service (the negotiation of a mechanism for existing shippers to exercise renewal rights was specifically provided for in section 7.2 of Schedule A to the Settlement).
- The terms of an interconnection policy governing the interconnection of the gathering and processing facilities of third parties with Westcoast's facilities in Zone 1 and Zone 2 (the negotiation of an interconnection policy was specifically provided for in section 8.1 of Schedule A to the Settlement).
- The terms for the disposition of the balance in the Revenue Deferral Account established pursuant to Article 5 of Schedule A to the Settlement (negotiation of the method for disposing of any balance in the Revenue Deferral Account was to be undertaken in conjunction with the negotiation of the framework for light-handed regulation as set out in section 5.3 of Schedule A to the Settlement).

In addition, the Framework also addresses the matters set out in the Board's letter dated November 29, 1996 (File No. 3400-W5-161) wherein the Board directed Westcoast to establish a policy to deal with the future disposition of facilities and a code of conduct to govern the relationship between Westcoast and Westcoast Gas Services Inc.

The following is a section by section summary of the Framework:

#### A. Introduction

The Introduction section of the Framework describes the intent of the Parties to provide for a new model of financial regulation for Westcoast's gathering and processing services to address the increasing competition in the provision of those services by Westcoast and the requirements of Westcoast's shippers for arrangements which meet their individual competitive situations. The Framework represents a joint industry solution for the ongoing regulation of Westcoast's gathering and processing services by replacing the existing system of active financial regulation by the Board with a complaints-based system. The Framework is designed to allow market forces to govern the relationships between Westcoast and its shippers in Zone 1 and Zone 2. The Parties believe that the implementation of the Framework taken together with the requirement already contained in the Settlement that service over new gathering and processing facilities is to be tolled on an incremental basis will further increase competition.

B. Fair Dealing Policy

The Fair Dealing Policy section of the Framework is intended to ensure that all parties desiring or obtaining service from Westcoast are treated fairly. The policy provides that Westcoast will provide information in a timely manner concerning the availability of any attrition capacity on its facilities in order that all shippers will have the opportunity to negotiate for the use of that capacity. This section also addresses the relationship between Westcoast and any of its affiliates who provide gathering and processing services and is designed to prevent those entities from obtaining a competitive advantage over other third party providers of gathering and processing services. Under the policy Westcoast has agreed to ensure that any subsidiary or affiliate of Westcoast that provides gathering and processing services, including Westcoast Gas Services Inc., be operated separately from Westcoast.

C. Contracting Practice

The Contracting Practice section of the Framework establishes the parameters under which Westcoast will negotiate individual service agreements with shippers and provides that Westcoast will continue to offer service under standard services contracts to those shippers who do not wish to negotiate individual contracts. Shippers who do not wish to negotiate an individual contract would only need to negotiate terms which relate to tolls and renewal rights. This section of the Framework also identifies a limited number of the provisions of Westcoast's General Terms and Conditions which the parties will be permitted to negotiate to accommodate individual requirements. These negotiable provisions are broadly speaking the commercial terms of the General Terms and Conditions as opposed to the operational terms. The Contracting Practices section also establishes a basis upon which existing shippers who hold firm service which is designated as One, Three or Five Year Service will be entitled to renew their existing service agreements.

Implementation of the Contracting Practices section of the Framework requires certain amendments to Westcoast's General Terms and Conditions. A copy of the revised General Terms and Conditions is enclosed with this Application under Tab 2, together with a copy of the pro forma Standard Service Contracts (under Tab 3) which have been designed and agreed upon by the Parties.

D. Provision of Market Information and Confidentiality of Contracts

The Provision of Market Information and Confidentiality of Contracts section of the Framework addresses the means by which information concerning the contracts negotiated between Westcoast and its shippers will be made available to others. The section expresses the desire of the Parties that negotiated contracts be kept confidential because of the sensitive competitive information that these contracts contain. However, the Parties also recognize that a reasonable degree of price discovery is required to assist in the operation of a functioning market and that Westcoast is subject to the requirements of section 61 of the National Energy Board Act.

This section outlines two alternative approaches (Approach #1 and Approach #2) to balance the objectives of confidentiality and price discovery. The two approaches are the same except for paragraph a) which addresses the filing requirements with the Board. Although the section states that the Parties recommend that the Board should adopt one of the two approaches, the Parties believe that Approach #1 may be preferable in light of the need for confidentiality. Accordingly, with respect to negotiated tolls, it is Westcoast's intention, following approval of the Framework, to file with the

Board tariffs under section 61(1)(a) of the NEB Act which specify by range the actual tolls which will be charged by Westcoast for gathering and processing services within each service area.

This section of the Framework also outlines the information that Westcoast will make available in report form to shippers on a quarterly basis concerning the negotiated service contracts. The form of these reports has now been settled by the Parties and copies are enclosed with this Application under Tab 4. The Parties intend that the form of these reports may be amended from time to time as circumstances require.

#### E. Complaint Process

The Parties contemplate that the financial regulation of Westcoast's services in Zone 1 and Zone 2 will be carried out on a complaint basis. The Complaint Process section of the Framework outlines the desire of the Parties to provide a process which will enable parties to resolve disputes without the necessity of applying to the Board. This proposal includes provision for the resolution of complaints by mediation, arbitration or, where required, by adjudication by the Board. The objective of providing for mediation or arbitration as dispute resolution methodologies is to provide timely and cost effective alternatives to parties who believe that their complaint can be better addressed using these methods. This type of regulation is not new. The Board now regulates Group 2 Companies on a complaint basis. Specific procedures are outlined whereby resolution of any complaint may, at the option of the parties, first be dealt with by mediation or arbitration. Any shipper will, however, always be free to complain directly to the Board.

This section also expresses the Parties' belief that the contracts, and information concerning the contracts, negotiated between Westcoast and its shippers is commercial in nature to be treated as confidential information by the shippers and Westcoast. Accordingly, the Parties have expressed their belief that in any complaint proceeding before the Board it would be highly desirable and necessary to the achievement of the goals of the Framework for the Board to exercise its power under section 16.1 of the NEB Act to ensure confidentiality.

#### F. Asset Utilization and Disposition Policy

The Asset Utilization and Disposition Policy section of the Framework establishes the principle that, as part of the proposal for light-handed regulation, Westcoast is responsible for the utilization of its gathering and processing facilities in Zone 1 and Zone 2. Accordingly, the Parties have agreed that any balance in the Revenue Deferral Account (established under Article 5 of Schedule A to the Settlement) as at December 31, 1999 will be for the account of Westcoast and the Revenue Deferral Account will be discontinued effective December 31, 1999, provided that the substance of the Framework is not altered by the Board prior to December 31, 1999 in a manner unacceptable to the Parties.

This section also sets out the policy which is to be followed by Westcoast in the event that it decides to dispose of any of its gathering and processing assets.

## G. Interconnection Policy for Zones 1 and 2

The Interconnection Policy for Zones 1 and 2 section of the Framework addresses the commitment of the Parties set out in section 8.3 of Schedule A to the Settlement to negotiate an interconnection policy in conjunction with the establishment of the principles for light-handed regulation. The interconnection policy is designed to further the competitive environment for gathering and processing services by enabling the owners of third party gathering and processing facilities to interconnect with Westcoast's facilities in Zone 1 and Zone 2. This section describes the circumstances under which competitors will be allowed in the future to interconnect their facilities to those of Westcoast and will provide guidance to the Board as to the intent of the Parties in the event it becomes necessary for the Board to adjudicate any dispute related to the interconnection of a third party.

### Approvals Sought

As set out in the Amending Agreement, the Parties have affirmed that the amendment to the Settlement is governed by section 2.5 of the Settlement, which is to say that the Framework is to be viewed as a whole and that no aspect of the Framework should be considered as acceptable to any of the Parties in isolation from all other aspects of the Framework. In this regard the Parties have agreed that Westcoast or any other Party acting in good faith will have the option to terminate the Settlement in accordance with section 9.2 of the Settlement if the Framework is not approved in its entirety by the Board.

Westcoast hereby requests that:

1. The Board approve the Framework which will be implemented immediately following such approval.
2. The Board confirm that the Framework satisfies the Board's directions to Westcoast set out in the Board's letter of November 29, 1996 wherein the Board directed Westcoast to establish an asset disposition policy and a code of conduct governing the relationship between Westcoast and WGSI.
3. The Board approve the amended General Terms and Conditions - Service.
4. The Board confirm that i) the balance in the Revenue Deferral Account as of December 31, 1999 will be for the account of Westcoast, and ii) the Revenue Deferral Account will be discontinued effective December 31, 1999, provided in both cases that the substance of the Framework is not altered by the Board prior to December 31, 1999 in a manner unacceptable to the Parties.

In Westcoast's submission the Framework is in the public interest and should be approved by the Board. The Framework was negotiated at arm's length after extensive negotiations. All Parties actively participated in the negotiations and these Parties represent, directly or indirectly, virtually all of Westcoast's shippers, gas producers and end-use markets and constitute all of the principle intervenors before the Board in Westcoast's toll proceedings. The Framework was approved by a unanimous resolution of Westcoast's Toll and Tariff Task Force at a meeting held on February 19, 1998 and all of Westcoast's current and potential shippers were invited to a presentation of the Framework on February 18, 1998.

In light of the broad industry support for the Framework and extensive discussions that have already taken place in the industry concerning the Framework, Westcoast does not believe that a formal hearing process to consider this application is necessary in the circumstances. On behalf of the Parties, Westcoast requests that the Board hold an open workshop at which Westcoast would make a presentation to the Board on the Framework and be available to respond to questions that any interested person may have.

The Parties have reviewed and concur with this Application and Westcoast understands that each of the other Parties will be filing a supporting letter with the Board.

Yours truly,

*(signed by)*

Jane Peverett

Enclosures (20)

cc:      RH-2-97 Interested Parties  
          All Shippers on the Westcoast System

Westcoast Energy Inc.  
Multi-Year Incentive Toll Settlement

Amending Agreement  
As of January 23, 1998

Westcoast Energy Inc. and its stakeholders as represented by the Canadian Association of Petroleum Producers, the Council of Forest Industries, Cominco Ltd., Methanex Corporation, the Export Users Group, BC Gas Utility Ltd. and CanWest Gas Supply Inc. (collectively the "Parties") hereby agree to amend the Multi-year Incentive Toll Settlement (the "Settlement") dated May 16, 1997, as approved by the National Energy Board in its RH-2-97 Decision by attaching as Schedule E to the Settlement the document attached hereto entitled "Framework for Light-Handed Regulation (the "Framework").

The Parties acknowledge and agree that the Framework constitutes the agreement between the Parties with respect to those matters that were to be negotiated between the Parties pursuant to articles 5.3 (Disposition of Revenue Deferral Account Balance), 7.1 (Light-Handed Regulation at the End of the Term), 7.2 (Renewal Rights) and 8.1 (Interconnection Policy) of Schedule A to the Settlement. The Parties agree that the Framework satisfies the requirements of Article 9.1(b) and (c) of the Settlement.

The Parties affirm that this amendment is governed by article 2.5 to the Settlement. Westcoast or any other Party acting in good faith will have the option to terminate the Settlement in accordance with article 9.2 of the Settlement if the attached Schedule E is not approved in its entirety by the Board.

The implementation of the Framework is subject to Board approval and the Parties agree that the Framework will be in effect on and after the date it is approved in its entirety by the Board.

This amending agreement is hereby agreed to as of January 23, 1998:

(signed by)

Westcoast Energy Inc.

per: \_\_\_\_\_

Canadian Association of Petroleum Producers

per: \_\_\_\_\_

Council of Forest Industries, Cominco Ltd. and Methanex Corporation

per: \_\_\_\_\_

BC Gas Utility Ltd.

per: \_\_\_\_\_

Export Users Group, comprised of Cascade Natural Gas Corporation, IGI Resources Inc., InterMountain Gas Company, Northwest Natural Gas Company, Puget Sound Energy Inc., and Washington WaterPower Company

per: \_\_\_\_\_

CanWest Gas Supply Inc.

per: \_\_\_\_\_

**SCHEDULE E**  
**FRAMEWORK FOR LIGHT HANDED REGULATION**  
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**Appendix A Negotiable and Non-negotiable Articles in the Westcoast GT&C**

**Appendix B Market Data Reports**

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**Appendix D Confidential Hearing Procedure Model**

**Appendix E Westcoast's GT&C at January 1, 1998**

**WESTCOAST ENERGY INC.  
FRAMEWORK FOR LIGHT HANDED REGULATION**

**A. Introduction**

1. Westcoast and its stakeholders as represented by the Canadian Association of Petroleum Producers, the Council of Forest Industries, Cominco Ltd. and Methanex Corporation, the Export Users Group, BC Gas Utility Ltd. and CanWest Gas Supply Inc. (collectively, the "Parties") propose the implementation of a new model of regulation, the Framework for Light Handed Regulation (the "Framework") for the Westcoast Gathering & Processing System ("Westcoast G&P Facilities") to address the increasing competition in the provision of gathering and processing services in British Columbia and to address the requirement of Westcoast's customers for arrangements which meet their individual competitive situation. As used in this Framework, "Westcoast G&P Facilities" refers to the gathering and processing facilities owned and operated by Westcoast Energy Inc. and regulated by the Board as at January 1, 1998, including any additions, modifications or extensions thereof. The Framework contemplates regulation in a manner consistent with evolving market dynamics and the regulatory legislation governing Westcoast's gathering and processing assets. It is the desire of the Parties that, subject to Article 9.1(d) of the Settlement, this Framework should survive legislation or jurisdictional changes.

The Parties recognize that Westcoast, in negotiating contracts for service, is bound by the provisions of the legislation under which its gathering and processing assets are regulated. Westcoast is currently subject to the provisions of the National Energy Board Act which require, *inter alia*, that a company subject to the Act shall not make any unjust discrimination in tolls, service or facilities against any person or locality. In this regard, Westcoast will charge similar tolls to Similarly Situated customers. As used in this Framework, the phrase "Similarly Situated" is intended to capture the requirements and standards of sections 62, 63 and 67 of the NEB Act. The Framework has been designed to ensure that commercial arrangements are consistent with regulatory concepts in place in Westcoast's gathering and processing service area.

2. The goals of the Framework are:

- a) To provide shippers and Westcoast with the opportunity to negotiate service requirements as they would in a competitive market. It is contemplated that shippers may negotiate as members of groups.
- b) To the greatest extent possible, to rely on commercial arrangements instead of regulatory oversight.
- c) To ensure that the individual requirements of all shippers are met in a not unjustly discriminatory manner. It is expressly recognized that provision of undue preferences by way of, for example, unduly favourable terms and conditions of service or access constitutes a form of unjust discrimination.
- d) To provide Westcoast the flexibility to compete without the ability to exercise significant market power.

- e) To provide Westcoast the incentive to increase its competitiveness in the provision of services to its customers.
  - f) To reduce barriers to entry for the provision of gathering and processing services in B.C.
  - g) To enhance the viability and competitiveness of the British Columbia natural gas basin by aligning more closely the interests of shippers and Westcoast by placing the responsibility for the recovery of existing investment costs on Westcoast and the responsibility for the cost of new facilities on the parties deciding to proceed with the facilities (i.e., Westcoast and those shippers requiring the new facilities).
3. The move from standardized contracts based on Westcoast's cost of service to negotiated contracts which reflect market pricing recognizes that shippers are knowledgeable and have significant information about the provision of gathering and processing services and in many cases have options by virtue of, for example, geographic location or capital resources. The Framework also contemplates an increase in competition through, among other things, the introduction of an interconnection policy.
4. Special consideration has been given to ensure that all shippers, regardless of size, resources, location, or the existence of a competitive alternative will be treated fairly.
5. The Parties intend that the Framework not be applied in a manner that would permit tolls for service provided by Westcoast to rise to a level that would simply reflect the revaluation of Westcoast's rate base for existing facilities to Westcoast's replacement cost.
6. Notwithstanding that tolls for service may vary to reflect market-based considerations, new toll arrangements entered into under the Framework, in particular for small volume captive shippers, will be priced consistent with service provided to shippers who have greater bargaining power. The Parties intend that during the transition period the Framework not be applied in a manner that would result in the premature shutting in of reserves currently connected to the Westcoast G&P Facilities.
7. The Framework contains policies and practices which Westcoast will follow in conducting its business. Any person who believes that Westcoast has not complied with these policies and practices will have recourse via the Complaint Process contained herein.
8. The Framework consists of this Introduction and:
- a) Fair Dealing Policy
  - b) Contracting Practice
  - c) Market Information and Confidentiality Policy
  - d) Complaint Process
  - e) Asset Utilization and Disposition Policy
  - f) Interconnection Policy

## **B. Fair Dealing Policy**

When negotiating with new or existing shippers for gathering and processing services, Westcoast will follow this policy.

1. Westcoast will:
  - a) apply or enforce any tariff or contract provision for services in a similar manner to all persons subject to such tariff or contract provision, having regard to the circumstances giving rise to the application of the provision;
  - b) give all persons similar opportunity to negotiate for service when attrition capacity is available or known to be coming available; and
  - c) process all requests for service in a similar manner and within a similar period of time.
2. Westcoast will, to the extent practicable, make information available to all persons regarding the availability of attrition capacity at the same time. Westcoast will publish attrition capacity available on its facilities on a monthly basis, including capacity which is known to be coming available within the next year.

Westcoast's plans for general expansion of the Westcoast G&P Facilities will be made known to all shippers on a timely basis. Plans initiated by a shipper or as a result of Westcoast's conversations with a shipper about their future requirements are exempt from this requirement. All shippers, current and potential, have the ability to discuss their requirements with Westcoast at all times.

3. Westcoast will not provide any customer specific confidential information to any party, including any affiliate or subsidiary, without the consent of the customer.
4. Westcoast will not directly or indirectly state, imply or offer any preference or favoured treatment to customers in respect of any Westcoast gathering or processing service as a result of using any service of a Westcoast affiliate or of the Westcoast Transmission facilities. To prevent any Relevant Affiliate from obtaining a competitive advantage over other third party midstream service providers, all Relevant Affiliates will be operated separately from Westcoast Field Services upon approval by the Board of the Framework. In this regard, Westcoast Gas Services Inc. ("WGSI") will be separated as soon as practicable (this will be no later than six months following the approval of the Framework by the Board). All Relevant Affiliates will have separate employees reporting to a President who will in turn will report to a senior executive of Westcoast and will have no reporting relationship to the President of Westcoast Field Services.

As used in this Framework, the phrase "Relevant Affiliate" refers to any subsidiary or affiliate of Westcoast that provides gathering and processing service.

Westcoast Field Services is an operating division of Westcoast Energy Inc. responsible for, among other things, the operations of Westcoast's G&P Facilities.

5. In the case of requests for service from third party service providers, Westcoast will not disclose any portion of that information to employees of Relevant Affiliates.

6. For greater certainty, Westcoast will continue to make its books and records available to the Board for audit purposes.
7. Westcoast will formally advise all of its employees of the expected conduct relative to this Fair Dealing Policy. Any alleged breach of this Policy will be brought to the attention of Westcoast's Chief Operating Officer, or designate, for investigation and action where appropriate. Non-compliance with the Policy will result in corrective action, including disciplinary action with consequences varying with the severity of the matter up to and including termination of employment with Westcoast.

**C. Contracting Practice:**

1. The tolls and terms and conditions on the Westcoast G&P Facilities will be governed by the contracts negotiated with individual shippers or groups of shippers.
2. The Parties believe that in determining whether two or more shippers are Similarly Situated, the parameters of the service desired by each shipper are relevant. The goal is to permit negotiations to include any item of value that could be the subject of bargaining in a competitive market. The parameters may allow for recognition of different circumstances and hence different pricing and terms and conditions of service between contracts. In addition, for the purpose of determining whether two or more shippers are Similarly Situated, service and tolls may be compared between supply areas ( e.g. Fort Nelson, Fort St. John, Pine River) as well as within supply areas.

The following list illustrates service parameters to which value may be ascribed during negotiations.

- a. Term of contracts
- b. Volume under contract
- c. Land dedication
- d. Reserve dedication
- e. Drilling commitments
- f. Existence of an economic alternative
- g. Renewal rights
- h. Conditions and circumstances existing at the date of execution of the contract
- i. The extent of compensation for non-performance by Westcoast
- j. Credit worthiness of the customer
- k. Gas composition (absolute gas composition and the composition of the gas relative to the available capacity of the plant when the service is requested)
- l. Location of facilities
- m. Receipt and delivery points
- n. Length of haul
- o. The extent of new facilities, if any, required to provide the service

### 3. Contracts

Westcoast will make standard contracts available to customers and will also negotiate contracts with customers.

#### a) Standard Contracts

Westcoast will make certain standard contracts available to any shippers who do not wish to negotiate all negotiable aspects of their service. The service provided under a standard contract will be either Firm Service or Interruptible Service. The components of a standard contract which may be negotiated include the volume, receipt and delivery point, acid content and toll.

The Parties expect that the standard contracts will be similar in form to contracts for service on the Westcoast system today. Westcoast will offer a range of terms for firm service contracts from one year to five years for gathering service, and two years to five years for treatment service and will be prepared to negotiate renewal provisions with an appropriate notice period. A standard contract will also be available for interruptible service. The form of standard contract will be designed and agreed upon by the Parties in order that it may be included in the application to the Board for approval of the Framework.

#### a) Negotiated Contracts

In addition to offering standard contracts, Westcoast will also negotiate contracts with shippers. The service provided by Westcoast under these negotiated contracts may differ from the service defined in the standard contracts, in that certain of the articles contained in Westcoast's GT&C for service may be modified within the negotiated contracts. Each of the articles within Westcoast's current GT&C, as updated for revisions to be effective January 1, 1998, has been classified in Appendix A as either negotiable or non-negotiable.

Only the following articles, where they pertain to gathering and processing, are negotiable in whole or in part:

Article 2, "Term of Service Agreement" - term, renewal rights and requirement to contract for related services

Article 5, "Receipt and Delivery Pressure" - pressure may not exceed MAOP

Article 8, "Contract Demand Credits" - except no higher level of reliability may be negotiated

Article 11, "Letter of Credit"

Articles 12.01 to 12.03, "Quality"

Article 14, "Measuring Equipment" - ownership, which party bears cost and requirement for facilities

Articles 16.03 to 16.08, "Possession and Control of Gas" - liquids at Ft. Nelson

Article 18.01 (c), "Representation and Warranties"

## Article 21.02, "Miscellaneous" - as it relates to assignments

Shippers will negotiate with Westcoast for the terms and conditions of the service they desire. These negotiations will also define the future renewal rights the shippers wish attached to their service.

Westcoast may negotiate contracts with a priority of service lower than firm service. The Parties contemplate that the relevant articles (e.g. articles 3.01 and 3.02) in Westcoast's GT&C will be amended to allow for the provision of any such service.

### 4. Non-Negotiable Terms and Conditions

Certain terms and conditions will be non-negotiable and, therefore, common to all contracts so that Westcoast can ensure that safe and reliable operating practices are followed and maintain the integrity of system-wide operations. The non-negotiable articles within Westcoast's GT&C are identified within Appendix A.

In addition, Westcoast will not enter into contracts which impair Westcoast's ability to fulfill its contractual obligations to other shippers, except with the agreement of such other shippers.

### 5. Renewal Rights

Shippers with existing 5, 3 and 1 Year Firm Service contracts may exercise their renewal rights as per the Settlement.

Westcoast will reinstate the renewal rights contained in its GT&C and applicable to 5, 3 or 1 Year Service which were limited under Article 7.2 of Schedule A to the Settlement. The notice period will be increased from 6 months to 13 months as of October 1, 2000. That is, a party wishing to renew its service effective November 1, 2001 must commit to financial responsibility for that service by October 1, 2000.

While it is desirable that the toll for the service be agreed upon by the date on which notice is given to extend service, it is not required. Negotiations, alternate dispute resolution or adjudication by the Board may continue after the renewal date. The shipper remains committed to pay for the capacity at the toll ultimately determined. A toll may even be set on an interim basis if the final toll has not been decided by the start date of the contract.

Shippers who hold service today will be permitted to renew that service as long as they are willing to pay a toll which reflects the market price for service. The bid made by one shipper for service held by another shipper will be relevant to the negotiation of the toll, but not determinative. Specifically, existing shippers will not simply be required to match a bid put forth by another shipper for the same service. Tolls paid by Similarly Situated shippers across the entire Westcoast system will also be relevant to the negotiation of the toll.

#### **D. Provision of Market Information and Confidentiality of Contracts**

The Parties desire that negotiated contracts be kept confidential because of the sensitive competitive information these contracts contain. However, the Parties also recognize the need for a reasonable degree of price discovery to assist in the operation of a functioning market. The National Energy Board Act provides that Westcoast may not charge any tolls except tolls that are specified in a tariff that has been filed with the Board and is in effect or approved by an order of the Board. Recognizing the desire for confidentiality, the need for market information and the requirements of the National Energy Board Act, the Parties recommend that the Board adopt one of the following approaches:

1. Approach #1:
  - a) Westcoast will file a tariff for each service which will contain a range of tolls to be charged by Westcoast which will be the maximum and minimum tolls to be charged by Westcoast.
  - b) Access to contracts that are introduced into a formal complaint adjudicated by the Board will be restricted under rules designed to preserve confidentiality and to prevent complaints or other processes from being used as a form of discovery.
  - c) All contracts will be available for audit by the Board, on its own initiative or in response to a complaint by a shipper.
  - d) Relevant contracts will be made available for the purpose of mediation/arbitration/adjudication in accordance with the Complaint Process that is set out in Section E of the Framework.
  - e) In order to provide appropriate market and price discovery information, Westcoast will prepare and make available summary data on contracts quarterly. Updates will be provided to any shipper entering into negotiations upon their request. The specific data to be made available will be approved by the Parties prior to Westcoast filing its application to the Board. Suggestions for the initial reporting include:
    - Treatment Service:
      - Report #1: By area, by acid range
        - the high, low and weighted average toll
        - the number of contracts
        - the volume contracted within that range
      - Report #2: By area, by volume
        - the high, low and weighted average toll
        - the number of contracts
        - the volume contracted within that range

**Report #3:** By area, by term  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Gathering Service:

**Report #1:** By area, by distance  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

**Report #2:** By area, by volume  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Examples of such reports are attached as Appendix B. It is anticipated that the reports may change over time, and these changes will be reviewed with the Toll and Tariff Task Force.

2. Approach #2

- a) If confidentiality is assured, Westcoast will file each negotiated contract with the Board as individual tariffs on a confidential basis.
- b) Access to contracts that are introduced into a formal complaint adjudicated by the Board will be restricted under rules designed to preserve confidentiality and to prevent complaints or other processes from being used as a form of discovery.
- c) All contracts are available for audit by the Board, on its own initiative or in response to a complaint by a shipper.
- d) Relevant contracts will be made available for the purpose of mediation/arbitration/adjudication in accordance with the Complaint Process that is set out in Section E.
- e) In order to provide appropriate market and price discovery information, Westcoast will prepare and make available summary data on contracts quarterly. Updates will be provided to any shipper entering into negotiations upon their request. The specific data to be made available will be approved by the Parties prior to Westcoast filing its application to the Board. Suggestions for the initial reporting include:

Treatment Service:

**Report #1:** By area, by acid range  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

**Report #2:** By area, by volume  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Report #3: By area, by term  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Gathering Service:

Report #1: By area, by distance  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Report #2: By area, by volume  
the high, low and weighted average toll  
the number of contracts  
the volume contracted within that range

Examples of such reports are attached as Appendix B. It is anticipated that the reports may change over time, which changes will be reviewed with the Toll and Tariff Task Force.

## **E. Complaint Process**

1. The objectives of the complaint process are to provide:
  - a) effective regulatory oversight;
  - b) an avenue for redress to any person who believes that Westcoast is not complying with the policies and practices set out in this Framework, or who is unable to reach a satisfactory contractual arrangement with Westcoast;
  - c) timely and cost-effective resolution of complaints; and
  - d) parties with the option of using an alternative dispute resolution mechanism.
2. The Parties recommend the following procedure for processing complaints arising from, or related to, the Framework. Nothing herein is intended to restrict parties from negotiating dispute resolution provisions in their contracts.
3. A complaint may proceed to:
  - a) mediation, at the option of the complainant; and/or
  - b) arbitration, by the agreement of Westcoast and the complainant; and/or
  - c) subject to (a), adjudication by the Board, at the option of either Westcoast or the complainant.
4. The complainant will submit its complaint in writing, along with supporting documents, if any, to the Board via its Secretary, and to Westcoast.
5. Complaints will include the following information:
  - a) name of complainant  
complainant address  
contact at complainant  
contact's phone number  
date of complaint  
general description of complaint  
general nature of the relief sought
  - b) Following mediation, the specific relief requested.
6. Mediation
  - a) The complainant may choose whether or not to pursue mediation, and Westcoast will accept the complainant's choice. The complainant and Westcoast will have 10 days following the filing of the complaint to choose a mutually acceptable mediator. If Westcoast and the complainant cannot agree upon the choice of a mediator, one may be appointed by the Board. With the agreement of the Board, Westcoast and the complainant, the staff of the Board may act as the mediator. In the event that the Board is unable or

unwilling to appoint a mediator, the complainant may request that a mediator be appointed by the British Columbia International Commercial Arbitration Centre or the Canadian Foundation For Dispute Resolution.

- b) Standard Terms of Reference for Mediation
  - i) The representatives of Westcoast and the complainant who take part in the mediation must have authority to settle the dispute.
  - ii) As soon as practical after the appointment of the mediator, the complainant and Westcoast will agree upon an appropriate mediation procedure [in this regard, they may wish to consider a Model Mediation Procedure, such as that available from the Canadian Foundation For Dispute Resolution]. The mediation procedure should address issues of confidentiality.
  - iii) Westcoast and the complainant may choose to authorize the mediator to make a report to the senior management of Westcoast and the complainant in the event that mediation is unsuccessful.
- c) Both the complainant and Westcoast will exchange their submissions within 10 days of the filing of the complaint, or such other time period to which they may agree, and deliver their submissions to the mediator.
- d) Additional information which describes the complaint in the submissions to the mediator should include the following:
  - i) how long the problem described has been going on;
  - ii) description of any other actions which have been taken to resolve the problem; and,
  - iii) the current status of negotiations.
- e) Westcoast will maintain a spreadsheet which summarizes the significant components of each negotiated service contract. The shipper holding the contract will approve the accuracy of the description of the components included in the spreadsheet which, once approved, may not be changed without approval of the shipper. The spreadsheet will be made available to the mediator on a confidential basis for the purpose of determining whether or not the mediator requires any of the contracts to complete their duties. The spreadsheet and any contracts provided by Westcoast to the mediator will not be available to the complainant. A sample spreadsheet is attached as Appendix C to this Framework.
- f) The complainant and Westcoast will have 30 days from the appointment of the mediator, or such other time period to which they may agree, to resolve the dispute via mediation. The positions taken in the mediation are without prejudice to the position either may take in a subsequent proceeding. If the complaint is not resolved through mediation, Westcoast and the complainant may both agree to move to arbitration, or either Westcoast or the complainant may pursue adjudication by the Board.

## 7. Arbitration

- a) If Westcoast and the complainant agree to proceed to arbitration, the arbitration will be conducted pursuant to the terms of a written arbitration agreement between the parties (including any prior agreement concerning arbitration negotiated by the parties in conjunction with a service agreement) that will identify the issues to be resolved and the

procedures to be adopted in the arbitration, that may include the commercial arbitration rules of the British Columbia International Arbitration Centre or the Canadian Foundation For Dispute Resolution.

- b) Westcoast and the complainant may agree to pursue "final offer" arbitration, for example, if a toll is in dispute.
- c) It is the desire of the Parties that hearings before an arbitrator will be designed to preserve confidentiality in the following manner:
  - i) the arbitrator will make an order of confidentiality and the recipients of confidential information will enter into confidentiality agreements with Westcoast as a condition to the receipt of such information, or
  - ii) the arbitration hearing will be conducted in accordance with the procedure set out in Appendix D.

## 8. Adjudication by the Board

- a) Westcoast or the complainant may elect to have the Board adjudicate the complaint even after arbitration is concluded. At the request of the Board, Parties will provide their positions and any decision in arbitration and, in light of all relevant circumstances, the Board may decide to make an order having regard to the positions or the arbitration decision.
- b) The Parties believe it will be beneficial for the Board to continue to write its decisions in a manner that, while respecting confidentiality, provides guidance to all industry participants as to how the Board decided the issues.
- c) The Parties believe that the contracts, and information concerning the contracts, negotiated between Westcoast and its shippers (collectively the "Confidential Information") is commercial in nature, to be treated as confidential information by the shippers and Westcoast and that the disclosure of Confidential Information could result in a material loss or gain to the shippers or Westcoast, or could be expected to prejudice the competitive position of the shippers or Westcoast. Accordingly, the Parties believe that it would be highly desirable and necessary to the achievement of goals of the Framework for the Board in any complaint proceeding brought under the NEB Act to exercise its powers under section 16.1 of the NEB Act and take all measures and make all orders necessary to ensure the confidentiality of the Confidential Information. Subject to the application of section 16.1 of the NEB Act, the Parties believe that appropriate measures for the Board could include:
  - i) the conduct of a non-public hearing with respect to the complaint with appropriate safeguards such as restricting the participation in the hearing to Westcoast and the complainant and issuing an order imposing confidentiality on the parties or imposing requirements that the recipients of Confidential Information enter into confidentiality agreements with Westcoast as a condition to the receipt of such information to ensure the confidentiality of Confidential Information; or
  - ii) the conduct of the hearing in accordance with the procedure set out in Appendix D.

## **F. Asset Utilization and Disposition Policy**

Under the Framework, Westcoast is responsible for the utilization of its gathering and processing assets and, consequently, bears the opportunities and risks associated with that responsibility.

Related to this responsibility is the Revenue Deferral Account established under Section 5.2 of Schedule A to the Settlement, risk of asset utilization, and the Disposition of Assets Policy.

### **1. Disposition of the Revenue Deferral Account**

Westcoast will accept responsibility for the entire amount in the Deferral Account and the Revenue Deferral Account will be discontinued on December 31, 1999 if both of the following occur:

- a) the Board approves the Framework substantially as proposed by the Parties; and
- b) the Board does not subsequently alter the substance of the Framework prior to December 31, 1999 in a manner unacceptable to the Parties.

### **2. Risk of Asset Utilization**

Under the Framework, Westcoast accepts the responsibility for the utilization of its gathering and processing assets and for the stranding of any of those assets.

### **3. Disposition of Assets Policy**

Westcoast may dispose of any gathering and processing assets, subject to approval for such disposition by the Board, and is responsible for the gain or loss on such disposition.

In the circumstance where Westcoast is considering disposing (including transfer, sale or lease) of an asset used in the gathering and processing of gas to a Relevant Affiliate, it will make the asset available to other potential acquirers as soon as practicable, which will allow such acquirers to participate in the disposition process on a meaningful basis. An exception to this requirement could be made to accommodate a reorganization of Westcoast. Westcoast will not utilize the timing of release of such information to the advantage of a Relevant Affiliate. Westcoast will ensure that if the potential availability of an asset is made known to the Relevant Affiliate, such information is promptly made available to all potential interested acquirers. Westcoast will invite other acquirers to submit sealed bids for the asset by a certain date. When advising parties of the request for bids, Westcoast will make all parties aware of any general criteria which will be used to evaluate the bids. Westcoast will make the same data available to all parties interested in bidding. For the purpose of evaluating the bids, no benefit will be ascribed to ownership of the asset by the Relevant Affiliate. The conduct of a bidding process will not oblige Westcoast to dispose of the asset. However, if the asset is disposed of, it must be directed to the party whose offer best satisfies the criteria.

In determining whether to dispose of assets and in each application to the Board requesting authorization for any such disposition, Westcoast will:

- a) Identify all material safety and operational and environmental impacts, if any, on the Westcoast G&P Facilities that are likely to result from disposition of the asset and the means by which any adverse impacts can be mitigated.
- b) Consider the current and future usefulness of the assets having regard to:
  - i) the asset's importance in permitting Westcoast to fulfill its current service obligations to shippers on the Westcoast G&P Facilities; and
  - ii) the value of the asset to Westcoast's shareholders if retained versus if disposed.

Nothing in the policy is intended to preclude the disposition of an asset if the shippers whose service is provided by that facility are in agreement with the disposition.

## **G. Interconnection Policy for Zones 1 and 2**

It is intended that Westcoast offer unbundled gathering and processing service and that parties who wish to interconnect to the Westcoast G&P Facilities for the purpose of providing a portion of current or future gathering and processing services, either in competition to or in cooperation with Westcoast, will be permitted to do so, subject to the availability of the required service and the satisfactory negotiation of an interconnection agreement with Westcoast. This policy is intended to reduce barriers to competition and assist in the orderly and economic development of the natural gas resource in the Western Canadian Sedimentary Basin.

### **Principles of Interconnection**

1. Westcoast will negotiate, in good faith, a toll for unbundled service for shippers receiving gas into the Westcoast G&P Facilities from a non-Westcoast facility or delivering gas from the Westcoast G&P Facilities to a non-Westcoast facility. Pricing and access to services will be negotiated and subject to the Framework. These services include but are not limited to:
  - a) raw gas transmission, including compression
  - b) raw gas transmission, excluding compression
  - c) treatment
  - d) field compression
2. An interconnection agreement will be required with any party wishing to interconnect its facilities to the Westcoast G&P Facilities. An interconnection agreement may allow for either the withdrawal of raw gas from the Westcoast system, the injection of raw gas into the system and/or the reinjection of partially processed gas into the system. The interconnection agreement between Westcoast and the interconnection party will specify the nature of the interconnection and the terms, including the costs, for the interconnection. During the term of the Settlement (January 1, 1997 to December 31, 2001), all interconnection agreements will be public.
3. An interconnection agreement must enable Westcoast to maintain its physical and operational integrity and reliability:
  - a) Certain assets that would be integral to the Westcoast G&P Facilities will be owned and operated by Westcoast even if paid for by another party, e.g., an inlet meter to a Westcoast plant, if required
  - b) An interconnection agreement must contain, or be complemented by, a satisfactory balancing agreement, including custody transfer rules
  - c) An interconnection agreement will require that Westcoast have the ability to equitably curtail the third party facility under agreed upon circumstances in which the safe and reliable operations of the Westcoast G&P Facilities are jeopardized
  - d) It is not intended that these provisions restrict the competition for gas supply from the Westcoast G&P Facilities or the competition for new gas supply.

4. An interconnection agreement must allow Westcoast to honour its existing contractual arrangements or mutually agreeable alternative arrangement with its shippers and other interconnected parties:
  - a) Product and components that are removed from the Westcoast G&P Facilities but belong to a shipper still contracted for service on the Westcoast G&P Facilities must be delivered to the same or a preferred location at the cost of the interconnecting party and with the agreement of the affected shippers.
  - b) An interconnecting plant must bear its equitable share of the shrinkage in the Westcoast gathering system.
  - c) Westcoast shippers will receive accurate and equitable allocation of products and components, including those removed from the system by an interconnecting facility.
  - d) Procedures and rules required to affect complicated interconnects will be waived when parties agree they are unnecessary. For example, the requirement for an inlet meter may be waived if an industry task force comprising Westcoast, the interconnecting party and representative shippers contracted to the Westcoast plant attached to the gathering system to which the third party plant wishes to interconnect, agree that an inlet meter is not required. Circumstances under which an inlet meter may not be required include:
    - i) The interconnecting plant processes precisely the gas under contract to it. There is no commingling of gas streams destined for different plants.
    - ii) The interconnecting plant operates as a plant extension, defined as:
      - the outlet residue gas and product measurement of the plant is combined with that of all other plants attached to the gathering system so that the allocation system treats all plants as a single plant;
      - only the Westcoast gathering system is connected to the plant; and,
      - a combined plant efficiency is used by the plant and all other plants attached to the gathering system for the allocation of products to shippers.
    - iii) Component balancing is not required because shippers agree that the components in the RGT system have insufficient value to require balancing (either volume or price is low). A modification to the allocation methodology would be required.

5. The interconnecting party must bear all net incremental capital, operating and administrative costs, including those incurred by Westcoast to affect the interconnection, directly related to the interconnection. Such costs may include inlet metering at the Westcoast plant. The amount and method by which the interconnecting party will bear these costs will be addressed by the interconnection agreement with Westcoast. It is recognized that incremental costs may occur in years following the interconnection and the responsibility of the interconnecting party for these costs will be addressed during the negotiation of the interconnection agreement:

- a) An interconnecting party who owns an interconnecting facility which is designed or operated in a manner which reduces the overall efficiency of the existing Westcoast G&P Facilities will be required to compensate Westcoast shippers and shareholders adequately. Costs must accommodate changes to Westcoast G&P Facilities efficiency and differences between gas composition entering the plant and composition contracted to the plant over time.

- b) The interconnecting parties and Westcoast will negotiate any compensation required for changes in processing capacity as a result of changing composition of the commingled gas stream, outside of acceptable tolerances, which are to be agreed upon as part of the interconnection agreement. It is recognized that capacity may increase or decrease and that the capacity of either the Westcoast or the interconnected facility may be affected.
- c) Westcoast and interconnecting parties will coordinate their facilities to the extent practical to minimize duplication of facilities.
- d) Benefits of the interconnection should be addressed when considering net costs to Westcoast shippers and shareholders

Notwithstanding points 4 and 5 above, at the request of its shippers, Westcoast will install a meter at the inlet of one or several of its plants and also, if requested by shippers, develop or modify its computer systems as required to utilize the information made available by the inlet meter. This is on the condition that the shippers bear the incremental costs of the meter and any related computer system developments or modifications through an increase in their tolls or some other agreed to cost recovery mechanism. Shipper willingness to bear the costs will be determined by a positive vote of at least two thirds of the shippers by contract volume who would be affected by the recovery of such costs and who vote on the matter. Westcoast will provide information as to the specifications, costs, timing and cost recovery mechanisms of the inlet meter and any related computer systems prior to the shipper vote.

## Appendix A

Article	Clause	Negotiable Y/N	Comments
1. Definitions and Interpretations			If terminology is not defined within the individual contract, the definition within the GT&C will apply.
2. Application, Minimum Term of Service Agreements and Extensions of Service	2.01 - 2.02	N	
	2.03 - 2.04	Y	Will revise to reflect standard contracts
	2.05	N	Transmission
	2.06	Y	Negotiable only for G&P service
	2.07	N	
	2.08	-	To be eliminated upon approval of Framework
	2.09	Y	
3. Priority of Sales and Services	3.01 - 3.02	N	May not define a priority higher than firm.
	3.03	N	
	3.04	N	Irrelevant. Boundary Lake closed.
	3.05	N*	* Limits may be negotiated
	3.06	N	Transmission
4. Authorization of Service and Delivery of Gas	4.01 - 4.11	N	Revisions required for NOMS These are system operating provisions
5. Receipt and Delivery Pressure	5.01 - 5.04	Y	May not exceed MAOP
	5.05 - 5.07	N	Transmission
6. Shipper Imbalances, Imbalance Transfers, and Swing Costs	6.01 - 6.11	N	Other services available to vary balancing options
7. Gas Diversions	7.01 - 7.03	N	Transmission
8. Contract Demand Credits	8.01	Y	
	8.02 - 8.04	N	Transmission
	8.05	Y	
9. Capacity Allocation	9.01 - 9.09	N	Transmission
10. Statements and Payments	10.01 - 10.09	N	
11. Letter of Credit	11.01 - 11.03	Y	Negotiable for G&P service only
12. Quality	12.01 - 12.03	Y	
	12.04 - 12.07	N	Transmission
13. Measurement	13.01 - 13.07	N	
14. Measuring Equipment	14.01 - 14.07	N*	Exception - may negotiate the party that pays for or owns the facilities and whether they are required.
15. Analysis	15.01 - 15.03	N	
16. Possession and Control of Gas	16.01 - 16.02	N	
	16.03 - 16.08	Y	
17. Liability	17.01 - 17.04	N	
18. Representations and Warranties	18.01 - 18.02*	N	*18.01(c) is negotiable
19. Force Majeure	19.01 - 19.03	N	
20. Notices	20.01 - 20.02	N	

Appendix A, cont'd

Article	Clause	Negotiable Y/N	Comments
21. Miscellaneous	21.01	N	
	21.02	Y	
	21.03 - 21.09	N	
22. LPSF	22.01 - 22.19	Y	Determine negotiability upon revision
23. OFO and ODC	23.01 - 23.16	N	
24. Short term Firm Service	24.01 - 24.02	N	Transmission
25. Overproduction Charges	25.01 - 25.08	N	System reliability provisions

Note: Westcoast's GT&C January 1, 1998 is attached as Appendix E.

## **Appendix D**

### **Confidential Hearing Procedure**

The following procedure has been drawn from that of the Canadian International Trade Tribunal.

1. Confidential Information shall be marked "Confidential".
2. Confidential Information may only be disclosed to a legal counsel or other advisor to a party to the hearing who has filed an appropriate Declaration and Undertaking with the arbitrator or Board. The advisor must not be a director, servant or employee of the party. The arbitrator or Board may grant access or, for sufficient reason, may deny access to any such counsel or advisor.
3. A legal counsel or advisor granted access to confidential information shall not, subject to the direction of the arbitrator or Board, divulge that information to any person, except a person who has also been granted access to such information or to the arbitrator or to personnel of the Board who have access to such information. For greater certainty, but without limiting the foregoing, such information shall not be divulged to the client of the legal counsel or of the advisor. (Note: this restriction on communication does not apply to information that is already in the possession or knowledge of the party.)
4. Confidential information, subject to the direction of the arbitrator or Board, shall not be photocopied or otherwise reproduced and shall not be communicated by facsimile or telephone.
5. Confidential information shall be kept in a secure storage device.
6. Confidential information provided to a legal counsel or other advisor, including notes, charts and memoranda based on such information, shall be returned to the arbitrator or Board or destroyed within 10 days of the participation of the counsel or advisor in the proceeding coming to an end. In the case of a change of legal counsel or advisor, the confidential information, including notes, charts and memoranda based on such information, may, subject to the direction of the arbitrator or Board, be entrusted to the new counsel or advisor who has filed the Declaration and Undertaking and been granted access to confidential information.
7. Any violation of these procedures or any change in the facts upon which access to confidential information was granted shall be reported immediately to the arbitrator or Board by the person who has committed the violation or whose facts have changed.
8. Where confidential information is filed in confidence in a hearing before the Board, a copy of the document from which all confidential information has been deleted will be filed as part of the information available to the public. (Arbitration hearings are private.) Confidential information shall be examined in a hearing before the arbitrator or the Board in a confidential session attended only by persons having access to confidential information and the information disclosed in the confidential session is itself confidential information governed by this procedure. A separate confidential transcript may be maintained. Where witnesses are examined in a confidential session, the witnesses shall not be referred to confidential information other than confidential information that is already in the possession or knowledge of the witnesses. A summary of the confidential session, which excludes any reference to confidential information, may be prepared and filed as part of the information available to the public.

9. The Declaration and Undertaking shall state the facts necessary to be granted access to confidential information, that the person is aware of the requirements concerning confidential information, that the person will comply with these requirements, and will be signed by the person making the Declaration and Undertaking.

## **Chapter 5**

### **List of Other Relevant Documents**

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1. Board letter dated 9 April 1998 setting out the process to consider Westcoast's application and identifying certain legal questions.
2. Westcoast letter dated 20 May 1998 commenting on the legal questions identified by the Board and certain other matters.
3. NORPAC letter dated 20 May 1998 commenting on the Framework.
4. CAPP letter dated 20 May 1998 commenting on the Framework.
5. BC Gas letter dated 22 May 1998 commenting on the Framework.
6. EUG letter dated 22 May 1998 commenting on the Framework.
7. CanWest letter dated 22 May 1998 commenting on the Framework.
8. Westcoast reply comments dated 25 May 1998.









